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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,380	01/16/2004	Shinichi Karube	HGM-125-A	6718

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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI, MI 48375

EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,380

Applicant(s)

KARUBE ET AL.

Examiner

Frank Vanaman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/16/04; 6/1/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Election/Restriction

1. Applicant's election with traverse of Group I in the reply filed on Feb. 23, 2006 is acknowledged. The traversal is on the ground(s) that the claims are directed to 'different aspects of a single inventive concept', or, failing the former, are directed to 'closely associated inventions'; and further that there is no burden on the examiner to examine a plurality of inventions. This is not found persuasive for the following reasons: The statutory basis for a restriction requirement is directed to the presentation of plural inventions in a single application, not a perceived burden on the examiner. In this case, the examiner notes that applicant has not argued that the 'different aspects' or the 'closely associated inventions' are patentably indistinct, and in view of the non-presentation of such arguments, it is deemed that applicant believes the species to be patentably distinct, and as such, a restriction or election of species would be proper. Furthermore, applicant has not presented any evidence that the examination and search of a plurality of patentably distinct inventions would require no more burden than the examination and search of a single invention. The arguments of applicant may not take the place of evidence in the record.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 9-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Feb. 23, 2006.

Claim Rejections - 35 USC § 112

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, it is not entirely clear what attributes of a saddle are or are not intended to be applied to a vehicle.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 4, 5, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Satoru et al. (JP 03-109185, cited by applicant). Satoru et al. Teach a front cover portion (8, in general) which may be separately mounted to a 'saddle-type vehicle' (figure 1) and thus understood to consist of a kit if separate from the vehicle (i.e., as illustrated in figures 3, 4), being attachable to a body frame portion (11) of the vehicle (shown in combination therewith in figures 1, 2, 5, 6, etc.); having a portion (31) for enclosing a head light (33) at a front central portion thereof; having a central cover portion (rearwardly of region 31) and left and right shroud portions (to the immediate left and right of 31, e.g., between the region defined at 31 and the regions defined at 12); the shroud portions connected to one another by the headlight portion; further including fenders (12) attached to the left and right of the respective left and right shroud portions; wherein the unit may be mounted as an assembly on the vehicle; the arrangement including a pair of stays (34) positioned rearwardly of and to the right and left ends of the headlight accommodating portion (note figures 3, 4, 5) the stays being attachable (41, 42; 36, 38; 11) to the body frame (11), the left and right shrouds being attachable to the stays through the material of the cover arrangement.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Satoru et al. (cited above) in view of Nakamura (US 6,820,708). The reference to Satoru et al. is discussed in detail above, and fails to teach the left and right fenders as being separate elements. Nakamura teaches that it is known to construct a vehicle front cover arrangement (figure 3) with plural elements being separate (131a, 135, 137, 138) and attachable to form a complete unit, including extensions of fender portions (e.g., 138). It would have been obvious to one of ordinary skill in the art at the time of the invention to make the fender portions of the cover arrangement taught by Satoru et al. separate from the remainder of the cover arrangement for the purpose of allowing easy interchange of parts, for example to repair minor damage without having to replace the entire cover. While the reference to Nakamura fails to precisely teach the entire fender elements as being separate, in view of the substantial number of separate elements taught, and further in view of portions of fenders (e.g., 138) being taught to be separate, it would have been obvious to one of ordinary skill in the art at the time of the invention to make a greater portion of the fender separate for the purpose of allowing the cover elements to occupy a smaller space when being shipped or stored.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Satoru et al. (cited above) in view of Kuji (US 6,622,666). The reference to Satoru et al. is discussed above and fails to teach a center cover portion removable from the frame without a tool. Kuji teaches a cover element (12, 12a, 18) mounted to a vehicle frame (F, in general) having a center cover element (35) removable from the cover assembly (at 34) and, in turn, the frame, the removal not taught to include a tool (col. 4, lines 17-

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18; col. 5, lines 65-67, etc.). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cover arrangement as taught by Satoru et al. with at least one removable center cover portion as taught by Kuji, for the purpose of allowing easy access to mechanical portions of the vehicle located beneath the cover arrangement.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tamura (US 4,667,758), Ichikawa et al. (US 5,620,217), Gagnon et al. (US 6,523,634), Kalhok et al. (US 6,547,027), Tamada (JP 8-295262); and Ueda (JP 2000-153780) teach vehicle structures of pertinence.

10. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618



4/20/06